

**Opening Statement of Rep. Edward J. Markey
at the Energy and Power Subcommittee Hearing
on H.R. 45, the Nuclear Waste Policy Act of 1999
Friday, March 12, 1999**

Thank you, Mr. Chairman.

I am very pleased that the hearings on the Nuclear Waste Policy Act have been extended so that we can hear from our friend and former colleague on this committee, Bill Richardson, and I would like to join in welcoming him here today. I look forward to hearing the Secretary's solutions to a problem whose resolution has eluded us all thus far. And I know I will make all of you equally pleased by assuring you that I will not sing today.

We are here again because the nuclear industry is crying that the United States government has not played fair, that it failed to keep its agreement to take the nuclear hot potato off their hands starting in January 1998, and it's just burning them up. Never mind that they were the ones who lobbied and pushed for the bills that set that artificial deadline and then ensured we could not meet it, never mind that they haven't shown that they have any safety problem storing the nuclear hot potato at their reactor sites for a few more years—they want relief. And they chose not one but two ways of getting their desired relief: legislation and litigation. The courts have ruled so far that while the government does not have to actually take the nuclear hot potato away, it does have to compensate nuclear utilities for their suffering. And although we here in Congress have twice defeated the industry's favored legislation, we really do hate to see a grown industry cry. So we have a bill before us again, H.R. 45, which would ship the nuclear hot potato by priority mail to Nevada.

Now along comes Secretary of Energy, who hears the industry's cries and makes a modest proposal. Perhaps the government can take some legal and financial responsibility for the hot potato if industry accepts just one form of relief. I think we need to hear more details about the specifics of the proposal before passing judgment on it, but at least it has one clear benefit: *it solves the problem industry says it has*. Industry complains that DOE agreed to take title to the waste and that their customers have been paying for it; under the proposal DOE would take title to the waste and pay for its storage at the reactor sites.

I find it very interesting that much of the nuclear industry and some of its Congressional allies have flatly rejected this proposal. According to a Nuclear Energy Institute press release issued the same day as Richardson's Senate testimony, NEI President Joe Colvin said, "This proposal ultimately will undermine the nation's program... The end game of this proposal is that there will be no permanent facility for disposal of this fuel." Secretary Richardson suggested giving the nuclear industry what they *say* they need, but it turns out that's not what they really *want*.

So what does the nuclear industry really want? Well, the NEI continues to press for a bill that would not only have DOE take title to the waste but also ship 100,000 canisters of waste through communities in 43 states, gut environmental standards for a permanent repository, mock the environmental impact statement process, and stick the nuclear hot potato in a temporary storage facility in Nevada without a permanent solution. And the nuclear industry also continues to pursue lawsuits for billions of dollars that would empty the Nuclear Waste Fund. Don't naively think the industry's *law* would stop the industry's *lawsuits*; NEI says, "we believe litigation will continue to serve a necessary role in addition to the needed reform legislation." Such an approach would simultaneously ship the waste to Nevada and take back the monies nuclear ratepayers contributed to pay for the waste's disposal, leaving Nevadans with the nuclear hot potato and U.S. taxpayers with the bill.

There is an end game here in which, as NEI says, "there will be no permanent facility for disposal of this fuel." In the words of the cartoon character Pogo, "Sometimes when you point the finger of blame, you find it aimed squarely at your own chest." I would suggest that it is the industry's legislate and litigate approach, rather than the Secretary's proposal, that poses the greatest current risk to funding and building the repository.

Between the storage facility in H.R. 45 and the lawsuits, the fund that is meant to pay for a permanent solution would be squeezed dry.

And so, when I consider the alternatives, I have an open mind about the Secretary's proposal. I will be interested in learning more this morning about how it would be implemented, what its impact would be on the environmental and health and safety rules governing storage and transportation of spent fuel, and exactly how it would be paid for. I look forward to the testimony of our former colleague, and I yield back the balance of my time.